

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

CHARLES E. MCCOY,

Case No. C-09-cv-211

Plaintiff,

-v-

**Judge Thomas M. Rose
Magistrate Judge Sharon L. Ovington**

CITY OF TROY, et al.,

Defendants.

**ENTRY AND ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS ON LAMNECK'S, SAXOUR'S
AND MAREITTA'S MOTION FOR SUMMARY JUDGMENT(Doc. #51) IN
ITS ENTIRETY; OVERRULING MCCOY'S OBJECTIONS (Doc. #55);
ENTERING JUDGMENT AGAINST MCCOY AND IN FAVOR OF
LAMNECK, SAXOUR AND MAREITTA AND OVERRULING
LAMNECK'S, SAXOUR'S AND MAREITTA'S MOTION TO STAY
DISCOVERY (Doc. #44) AS BEING MOOT**

This matter comes before the Court pursuant to Magistrate Judge Sharon L. Ovington's Report and Recommendations (doc. #51) regarding Defendants Lamneck's, Saxour's and Mareitta's joint motion for summary judgment (doc. #38). The Magistrate Judge has now reviewed this motion for summary judgment and recommends that it be granted because Plaintiff Charles E. McCoy ("McCoy") did not exhaust his administrative remedies and cannot pursue his claim against Lamneck, Saxour and Mareitta in this Court.

McCoy has filed Objections to the Report and Recommendations and the time has run and Lamneck, Saxour and Mareitta have not responded to McCoy's Objections. This matter is, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court

finds that the Magistrate Judge's Report and Recommendations is adopted in its entirety.

McCoy did not exhaust his administrative remedies on his claim against Lamneck, Saxour and Mareitta and cannot pursue that claim in this Court. Therefore, Lamneck's, Saxour's and Mareitta's joint motion for summary judgment is granted. Judgement is entered against McCoy and in favor of Lamneck, Saxour and Mareitta as to all claims set forth against them in McCoy's amended complaint. Finally, Lamneck's, Saxour's and Mareitta's motion to stay discovery is overruled as being moot.

DONE and **ORDERED** in Dayton, Ohio, this Twentieth Day of April, 2010.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Charles E. McCoy at his last address of record